

Phillip H. Stanfield, Bar #011729
David L. Stout, Jr., Bar #024857
Erik J. Stone, Bar #027805
JONES, SKELTON & HOCHULI P.L.C.
40 N. Central Avenue, Suite 2700
Phoenix, Arizona 85004
Telephone: (602) 263-1745
Fax: (602) 200-7877
pstanfield@jshfirm.com
dstout@jshfirm.com
estone@jshfirm.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Sydney Marie James, a single woman,
Plaintiff,

v.

Juan Morales d/b/a Second Generation
Trucking, LLC, a foreign limited liability
company; Louis Morales and Jane Doe
Morales, husband and wife; Juan Morales
and Jane Doe Morales, husband and wife;
John and Jane Does I-X; Black and White
Partnerships I-X; and ABC Corporations
I-X,
Defendants.

No.

NOTICE OF REMOVAL

Defendants Juan Morales and Louis Morales, residents of New Mexico, and
Juan Morales d/b/a Second Generation Trucking, a New Mexico limited liability company
with its principal place of business in Las Cruces, New Mexico (collectively
“Defendants”), remove this action brought by Plaintiff Sydney Marie James, an Arizona
resident, from the Superior Court for Maricopa County, numbered as CV2021-095803, to
this United States District Court for the District of Arizona on the grounds of diversity of
citizenship pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. As grounds for removal,
Defendant states as follows:

1 **I. PROCEDURAL HISTORY**

2 1. On March 7, 2022, Defendant Juan Morales (and Jane Doe Morales)
3 was served, as an out-of-state defendant, with a copy of the Summons, Complaint, and
4 Certificate of Compulsory Arbitration. *See* Affidavit of Completion of Service Upon Out
5 of State Defendants by USPS Signature Received and Personal Process Service, attached
6 in Exhibit A.

7 2. On March 7, 2022, Defendant Second Generation Trucking, LLC was
8 served, as an out-of-state defendant, with a copy of the Summons, Complaint, and
9 Certificate of Compulsory Arbitration. *See* Affidavit of Completion of Service Upon Out
10 of State Defendants by USPS Signature Received and Personal Process Service, attached
11 in Exhibit A.

12 3. On March 8, 2022, Defendant Louis Morales (and Jane Doe Morales)
13 was served, as an out-of-state defendant, with a copy of the Summons, Complaint, and
14 Certificate of Compulsory Arbitration. *See* Affidavit of Completion of Service Upon Out
15 of State Defendants by USPS Signature Received and Personal Process Service, attached
16 in Exhibit A.

17 4. All Defendants in this action have now been served.

18 5. A responsive pleading has not yet been filed.

19 **II. TIMELINESS OF REMOVAL**

20 6. Under 28 U.S.C. § 1446(b)(1), a notice of removal shall be filed
21 within thirty (30) days after the receipt by the Defendant, through service or otherwise, of
22 a copy of the initial pleading setting forth the claim for relief upon which such action or
23 proceeding is based.

24 7. As provided in Paragraph 1 above, Defendant Juan Morales was
25 served with the Complaint on March 7, 2022. Accordingly, the 30-day period for removal
26 under 28 USC 1446(b)(1) expires April 6, 2022, unless time is otherwise extended.

27 8. As provided in Paragraph 2 above, Defendant Second Generation
28 Trucking, LLC was served with the Complaint on March 7, 2022. Accordingly, the 30-

1 day period for removal under 28 USC 1446(b)(1) expires April 6, 2022, unless time is
2 otherwise extended.

3 9. As provided in Paragraph 3 above, Defendant Louis Morales was
4 served with the Complaint on March 8, 2022. Accordingly, the 30-day period for removal
5 under 28 USC 1446(b)(1) expires April 7, 2022, unless time is otherwise extended.

6 10. This Notice of Removal is filed within thirty (30) days after the
7 Complaint was served on all Defendants and, therefore, is timely. *See* 28 U.S.C. §
8 1446(b)(1).

9 11. A Notice of Filing Notice of Removal was filed with the Superior
10 Court in and for Maricopa County. *See* Notice of Filing Notice of Removal (excluding
11 exhibits), attached as Exhibit B.

12 **III. BASIS OF REMOVAL**

13 12. Defendants remove this case to federal pursuant to 28 U.S.C. §§ 1332,
14 1441, and 1446.

15 13. Removal is proper under diversity jurisdiction.

16 14. Plaintiff's Complaint asserts that Plaintiff is "residing in Maricopa
17 County, Arizona." [*Complaint at ¶ 1*] Plaintiff further asserts that Defendant Second
18 Generation Trucking, LLC "is a foreign limited liability company, doing business in Dona
19 Ana County, New Mexico." [*Complaint at ¶ 2*] Plaintiff also asserts that Defendant Louis
20 Morales and Jane Doe Morales are "residing in Dona Anna County, New Mexico."
21 [*Complaint at ¶ 3*] Lastly, Plaintiff asserts that Defendant Juan Morales and Jane Doe
22 Morales are "residing in Dona Anna County, New Mexico." [*Complaint at ¶ 5*]

23 15. Consistent with Plaintiff's assertions in the Complaint, Defendant
24 Second Generation Trucking, LLC affirmatively alleges that it is indeed a New Mexico
25 limited liability company with its principal place of business in Las Cruces, New Mexico.
26 For diversity purposes, corporations are citizens of their state of incorporation and the state
27 in which they have their principal place of business. 28 U.S.C. § 1332(c).

1 16. Consistent with Plaintiff's assertions in the Complaint, Defendant
2 Juan Morales affirmatively alleges that he is domiciled in the state of New Mexico. He
3 permanently resides in Las Cruces, New Mexico, and has since approximately 1994. He
4 has no other places of residence and pays all of his taxes in the state of New Mexico.

5 17. Consistent with Plaintiff's assertions in the Complaint, Defendant
6 Louis Morales affirmatively alleges that he is domiciled in the state of New Mexico. He
7 permanently resides in Las Cruces, New Mexico, and has since approximately 2001. He
8 has no other places of residence and pays all of his taxes in the state of New Mexico.

9 18. There is complete diversity between Plaintiff and Defendants. All
10 Defendants consent to removal. In respect of 28 USC 1446 (2)(A), there are no other
11 defendants to join in or consent to removal of this action. In respect of 28 USC 1441(b)(2),
12 Defendants are not citizens of Arizona.

13 19. Defendants avow that the amount in controversy is in excess of
14 "\$75,000 exclusive of interest and costs" as set out in 28 USC 1332(a). Indeed, Plaintiff
15 has already demanded \$450,000.00 to settle this case.

16 20. Based on the above, this Court has jurisdiction over this action
17 pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.00 and
18 there is complete diversity of citizenship. *See* 28 U.S.C. § 1332(a).

19 21. Attached to this Notice of Removal are the following:

20 a. All pleadings filed in this action in the Superior Court of
21 Maricopa County. *[Exhibit A – Superior Court Pleadings]*

22 b. The Notice of Filing Notice of Removal as filed in the Superior
23 Court action. *[Exhibit B – Notice of Filing Notice of Removal]*

24 22. Copies of this Notice of Removal are concurrently being served on
25 Plaintiff through opposing counsel and delivered to the Superior Court of Maricopa County
26 for lodging.

27 **WHEREFORE**, Defendants request that the above action now pending in
28 the Superior Court in and for Maricopa County be removed to this Court.

1 DATED this 6th day of April, 2022.

2 JONES, SKELTON & HOCHULI, P.L.C.

3
4 By s/Erik J. Stone

5 Phillip H. Stanfield

6 David L. Stout, Jr.

7 Erik J. Stone

8 40 N. Central Avenue, Suite 2700

9 Phoenix, Arizona 85004

10 Attorneys for Defendants

11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on this 6th day of April, 2022, I caused the foregoing
13 document to be filed electronically with the Clerk of Court through the CM/ECF System
14 for filing; and served on counsel of record via the Court's CM/ECF system.

15 Peter M. Gorski, Esq.

16 LAW OFFICE OF PETER GORSKI, P.L.C.

17 1820 E. Ray Road

18 Chandler, Arizona 85225-7878

19 Attorney for Plaintiff

20 s/Kadie G. Lewis